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## Part I — When Hearings Are Required

### 16.1 Different Procedures for Progress Reviews and Dispositional Review Hearings

\*See Part IV, below, for a discussion of the procedural requirements for “progress reviews.”

\*See Part III, below, for discussion of court rule and statutory requirements to meet these objectives.

When the child has not been removed from the home, dispositional reviews (often called “progress reviews”) will be conducted periodically by the court to determine the progress of the family toward rectifying conditions that brought the child within the jurisdiction of the court. No formal hearing is *required*, but a hearing *may* be held—especially if the child was once in placement and has since been returned home.\*

Dispositional review *hearings* must be conducted within certain time requirements when the child has been placed in foster care. The two main objectives\* of a dispositional review hearing are:

(a) court review of the progress made to comply with any order of disposition and with the Case Service Plan prepared pursuant to MCL 712A.18f; MSA 27.3178(598.18f), and

(b) court evaluation of the continued need and appropriateness for the child to be in foster care.

MCR 5.973(B)(1)(a)–(b).

During the dispositional review hearing, the court must review the performance of the child, the child’s parent, guardian, or custodian, the juvenile worker, and other persons providing assistance to the child and his or her family. MCL 712A.19(2); MSA 27.3178(598.19)(2).

### 16.2 Requirements of the Child’s Supervising Agency

\*This 12-month time requirement coincides with the time requirement for holding a permanency planning hearing. See Section 17.2.

The child’s supervising agency is required to strive to achieve a permanent placement for the child, including either a safe return to the child’s home or implementation of an alternative permanency plan, within 12 months after the child is removed from his or her home. This 12-month goal shall not be extended or delayed for reasons such as a change or transfer of staff or worker at the supervising agency. MCL 722.954b(1); MSA 25.359(4b)(1).\*

The child’s supervising agency must require its worker to visit at least monthly the home or facility in which the child is placed, and to monitor and assess in-home visitation between the child and his or her parents. MCL 722.954b(3); MSA 25.359(4b)(3).

“Supervising agency” means the Family Independence Agency if the child is placed in the FIA’s care for foster care, or a child placing agency in whose care a child is placed for foster care. MCL 722.952(1); MSA 25.359(2)(1).

## 16.3 Referees Who May Conduct Dispositional Review Hearings

Unless a party has demanded a *trial* by judge or jury, a referee may conduct the trial and further proceedings through the dispositional phase. MCR 5.913(B). The court may assign a referee to conduct a dispositional review hearing and to make recommended findings and conclusions. MCR 5.913(A)(1). A referee who conducts a dispositional review hearing must be licensed to practice law in Michigan. MCR 5.913(A)(3).\*

\*See also Section 16.20, below (referees who may conduct progress reviews).

Referees may administer oaths and examine witnesses, and, if a case requires a hearing and taking of testimony, the referee must make a written signed report to the judge containing a summary of the testimony taken and a recommendation for the court's findings and disposition. MCL 712A.10(1)(b)–(c); MSA 27.3178(598.10)(1)(b)–(c). Referees do not have authority to enter orders.

## 16.4 Appointment of Attorney for Respondent

If the respondent is not represented by an attorney, the respondent may request and receive a court-appointed attorney at a dispositional review hearing. See MCR 5.915(B)(1)(a)(ii) and MCL 712A.17c(4)(a)–(c); MSA 27.3178(598.17c)(4)(a)–(c).\*

\*See Section 7.9 for a more detailed discussion.

In *In re Hall*, 188 Mich App 217, 220–22 (1991), respondent-mother failed to contact her court-appointed attorney for 16 months prior to a dispositional review hearing. The trial court dismissed her attorney, and at a subsequent review hearing, a caseworker testified that respondent's child had been sexually abused while in foster care. A supplemental petition requesting termination of respondent's parental rights was pending at the time of the subsequent review hearing. On appeal, respondent argued that the trial court should have appointed counsel on its own motion for her at the subsequent review hearing. The Court of Appeals disagreed, holding that MCR 5.915(B) requires some affirmative action by a respondent in order to have counsel appointed for purposes of a review hearing, even where a supplemental petition requesting termination of parental rights has been filed. In addition, respondent's failure to contact her court-appointed attorney and her failure to appear at any review hearings constituted a waiver of her right to appointed counsel.

## 16.5 Appearance of Lawyer-Guardian Ad Litem for Child

\*See Sections 7.10–7.11 for a detailed discussion of the powers and duties of lawyer-guardians ad litem.

The court must appoint a lawyer-guardian ad litem to represent the child, and the child may not waive the assistance of a lawyer-guardian ad litem. MCL 712A.17c(7); MSA 27.3178(598.17c)(7). MCL 712A.17d(1)(g); MSA 27.3178(598.17d)(1)(g), provides that the lawyer-guardian ad litem must attend all hearings, including dispositional review hearings, and substitute representation for the child only with court approval.\*

## 16.6 Appointment of Guardians Ad Litem\*

\*See Section 7.13 for a detailed discussion.

The court may appoint a guardian ad litem for the child. MCL 712A.17c(10); MSA 27.3178(598.17c)(10). In addition, if the court finds that the welfare of a party requires it, the court may appoint a guardian ad litem for that party. MCR 5.916(A).

## 16.7 Appearance of Prosecuting Attorney

\*See Section 7.14 for a more detailed discussion.

If the court requests, the prosecuting attorney must appear at any proceeding. MCR 5.914(A).\*

# Part II — Time and Notice Requirements for Review Hearings

## 16.8 Time Requirements for Review Hearings When Child Is in Foster Care\*

\*See also Section 5.17 for a table summarizing time and notice requirements for various hearings, including dispositional review hearings.

The statutes providing for post-disposition review hearings require the court to conduct such hearings at the following intervals:

- F Unless a child is in a permanent foster family agreement or is placed with a relative in a placement intended to be permanent, review hearings must be held not more than 91 days following entry of the order of disposition and every 91 days thereafter as long as the child is subject to the jurisdiction, control, or supervision of the court, the Michigan Children's Institute, or other agency. MCL 712A.19(3); MSA 27.3178(598.19)(3).
- F A permanency planning hearing must be conducted not more than 364 days after an original petition has been filed. MCL 712A.19a(1); MSA 27.3178(598.19a)(1).\*

\*See Chapter 17 for discussion of permanency planning hearings.

- F Unless a child is in a permanent foster family agreement or is placed with a relative in a placement intended to be permanent, review hearings must be held not more than 91 days after the original permanency planning hearing and every 91 days thereafter as long as the child is subject to the jurisdiction, control, or supervision of the court, the Michigan Children’s Institute, or other agency. MCL 712A.19a(1); MSA 27.3178(598.19a)(1).\*
- F If a child is in a permanent foster family agreement\* or is placed with a relative in a placement intended to be permanent, review hearings must be held not more than 182 days after a permanency planning hearing and every 182 days thereafter as long as the child is subject to the jurisdiction, control, or supervision of the court, the Michigan Children’s Institute, or other agency. MCL 712A.19(4); MSA 27.3178(598.19)(4).
- F Unless a child is in a permanent foster family agreement or is placed with a relative in a placement intended to be permanent, review hearings must be held not more than 91 days following termination of parental rights to the child and every 91 days thereafter as long as the child is subject to the jurisdiction, control, or supervision of the court, the Michigan Children’s Institute, or other agency. MCL 712A.19c(1)–(2); MSA 27.3178(598.19c)(1)–(2).\*

\*Review hearings and permanency planning hearings may be combined. See Section 16.10, below.

\*See Section 13.24(C) for a list of the required parties to a permanent foster family agreement.

\*See Section 19.3.

**Note:** The Michigan Court Rules have not been amended to reflect the changes to the Juvenile Code dealing with time requirements for the review hearings described above. It is therefore important to check the statute for the correct time requirement. See MCR 5.973(B)(2)(a) (“so long as the child remains in foster care,” dispositional review hearings must be conducted every 91 days following entry of the original order of disposition), MCR 5.973(B)(2)(b) (dispositional review hearing must be conducted “no later than every 182 days after the first year following entry of the original order of disposition (the calculation to commence from the date of the first permanency planning hearing)”), MCR 5.973(B)(2)(c) (dispositional review hearings must be conducted “no later than every 91 days for the first year after placement of a child in foster care following a dispositional review hearing or a[n emergency removal hearing] under MCR 5.973(E), and every 182 days thereafter”), MCR 5.973(C)(2) (requires a permanency planning hearing to be conducted 364 days after entry of the original order of disposition), and MCR 5.974(J) (post-termination review hearings must be conducted every 182 days “as required by MCL 712A.19c; MSA 27.3178(598.19c)”).

## 16.9 Accelerated Review Hearings

At the initial dispositional hearing and at every regularly scheduled dispositional review hearing, the court must decide whether it will conduct the next review hearing before it is required under MCL 712A.19(3)–(4); MSA 27.3178(598.19)(3)–(4). In deciding whether to shorten the interval between review hearings, the court must, among other factors, consider:

(a) the ability and motivation of the parent to make changes needed to provide the child a suitable home environment, and

(b) the reasonable likelihood that the child will be ready to return home earlier than the next scheduled dispositional review hearing.

MCL 712A.19(9)(a)–(b); MSA 27.3178(598.19)(9)(a)–(b), and MCR 5.973(B)(3)(a)–(b).

\*See Chapter 17 for a complete discussion of permanency planning hearings. If the hearings are combined, the notice requirements for a permanency planning hearing should be observed. See Section 17.3.

## 16.10 Combined Permanency Planning Hearing and Review Hearing\*

A permanency planning hearing under MCL 712A.19a; MSA 27.3178(598.19a), may be combined with a review hearing conducted under MCL 712A.19(3); MSA 27.3178(598.19)(3) (review hearings required every 91 days as long as the child is subject to the jurisdiction, control, or supervision of the court, the Michigan Children’s Institute, or other agency).

## 16.11 Notice Requirements for Dispositional Review Hearings

The court must ensure that written notice of a dispositional review hearing is given to the appropriate persons in accordance with MCR 5.920 and MCR 5.921(B)(2). MCR 5.973(B)(4). Notice of a dispositional review hearing must be given in writing or on the record at least 7 days prior to the hearing. MCR 5.920(C)(1).

Prior to a dispositional review hearing, the court must ensure that the following persons are notified in writing:

- F the agency responsible for the care and supervision of the child, which shall advise the child of the hearing if the child is 11 years of age or older;
- F the foster parent or custodian of the child;
- F if parental rights have not been terminated, the parents of the child;
- F the guardian of the child;
- F the guardian ad litem of the child;
- F a “nonparent adult” if he or she is required to comply with the Case Service Plan;\*
- F the elected leader of the Indian tribe (if tribal affiliation has been determined);
- F the attorney for the child, the attorneys for each party, and the prosecuting attorney (if she or he has appeared);
- F the child (if 11 years of age or older); and
- F other persons as the court may direct.

\*See Section 13.21 for discussion of this requirement.

MCL 712A.19(5)(a)–(j); MSA 27.3178(598.19)(5)(a)–(j), and MCR 5.921(B)(2)(a)–(k).

**Note:** The court is required to appoint a “lawyer-guardian ad litem” for the child. In some circumstances, the court may also appoint an “attorney,” and/or a “guardian ad litem.” See MCL 712A.13a(1)(b), (e), and (f); MSA 27.3178(598.13a)(1)(b), (e), and (f). For purposes of a required notice, “attorney” includes “lawyer-guardians ad litem.” The appointment of counsel for a child is discussed in detail in Sections 7.10–7.13.

If a child is placed outside of his or her home, and if a physician has diagnosed the child’s abuse or neglect as involving failure to thrive, Munchausen Syndrome by Proxy, Shaken Baby Syndrome, a bone fracture that is diagnosed as a result of abuse or neglect, or drug exposure, the court must notify each physician of the time and place of the dispositional review hearing. MCL 712A.18f(6)–(7); MSA 27.3178(598.18f)(6)–(7).\*

\*This requirement is effective March 1, 1999. 1998 PA 479. See Sections 13.18 and 13.20 for a detailed discussion.

## 16.12 Waiver of Review Hearing and Return of Child Home

If the requisite seven days’ notice prior to a review hearing was given to all parties, or if proper notice of hearing is waived,\* and if no party requests a hearing within the seven days, the court may issue an order without holding a review hearing permitting the agency to return the child home. MCR 5.973(B)(7)(b) and MCL 712A.19(10); MSA 27.3178(598.19)(10).

\*See Section 5.12 for requirements for waiver of notice of hearing.

## Part III — Procedural Requirements for Review Hearings

### 16.13 Required Procedures and Rules of Evidence at Dispositional Review Hearings

Dispositional review hearings must be conducted in accordance with the procedures and rules of evidence applicable to the initial dispositional hearing. MCR 5.973(B)(5). The Michigan Rules of Evidence do not apply, and all relevant and material evidence may be received and relied upon to the extent of its probative value, even though such evidence may not be admissible at trial.\*

\*See Sections 13.16 (rules of evidence) and 13.17 (abrogation of privileges).

The parties may challenge the weight to be given written reports, especially since such reports generally contain “hearsay within hearsay.” See Sections 11.6(F) and 11.6(G).

\*This rule is effective March 1, 1999. 1998 PA 480. See Section 7.11 (powers and duties of lawyer-guardians ad litem).

\*This requirement is effective March 1, 1999. 1998 PA 479. See Sections 13.18 and 13.20 for a detailed discussion.

\*See Section 13.19 for a discussion of Case Service Plans.

\*See Section 13.22 for a discussion of the “reasonable efforts” requirement.

Neither the court nor another party to the case may call a lawyer-guardian ad litem as a witness to testify regarding matters related to the case. MCL 712A.17d(3); MSA 27.3178(598.17d)(3).\*

## A. Information That the Court Must Consider

The court must consider any written or oral information concerning the child from the child’s parent, guardian, custodian, foster parent, child caring institution, relative with whom a child is placed, attorney, lawyer-guardian ad litem, or guardian ad litem, in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing. MCR 5.973(B)(5) and MCL 712A.19(11); MSA 27.3178(598.19)(11).

If a child is placed outside of his or her home, and if a physician has diagnosed the child’s abuse or neglect as involving failure to thrive, Munchausen Syndrome by Proxy, Shaken Baby Syndrome, a bone fracture that is diagnosed as a result of abuse or neglect, or drug exposure, the court must allow the child’s attending or primary care physician to testify regarding the Case Service Plan at a judicial proceeding to determine if the child is to be returned home, which includes a dispositional review hearing. MCL 712A.18f(6)–(7); MSA 27.3178(598.18f)(6)–(7).\*

## B. Updated and Revised Case Service Plan

If the child continues in placement outside of his or her home, the Case Service Plan must be updated and revised at 90-day intervals. MCL 712A.18f(5); MSA 27.3178(598.18f)(5).\*

When updating and revising the Case Service Plan, the agency must consult with the foster parent and attach a summary of the information received from the foster parent to the updated and revised Case Service Plan. Updated and revised Case Service Plans must be available to the court and all parties. MCL 712A.18f(5); MSA 27.3178(598.18f)(5).

## C. Review of Agency Report and Recommendation

The report of the agency that is filed with the court must be accessible to the parties and offered into evidence. MCR 5.973(B)(5) and MCL 712A.19(11); MSA 27.3178(598.19)(11). If the agency responsible for the care and supervision of the child recommends not placing the child with the parent, the agency must report in writing what efforts were made to prevent removal, or to rectify conditions that caused removal, of the child from the home. MCR 5.973(A)(4)(a) and MCL 712A.18f(1)(a)–(d); MSA 27.3178(598.18f)(1)(a)–(d).\*

## D. Accelerated Review of Elements of Case Service Plan

Upon motion by any party or by the court in its own discretion, a review hearing may be accelerated to review any element of the Case Service Plan. MCR 5.973(B)(5) and MCL 712A.19(3) and (4); MSA 27.3178(598.19)(3) and (4).



## 16.14 Required Review of Progress Toward Compliance With Case Service Plan

At a review hearing, the court must consider, on the record, all of the following:

- F compliance with the Case Service Plan with respect to services provided or offered to the child and the child's parent, guardian, custodian, or "nonparent adult" if the "nonparent adult" is required to comply with the Case Service Plan\* and whether these persons have complied with and benefited from those services;
- F compliance with the Case Service Plan with respect to parenting time with the child. If parenting time did not occur or was infrequent, the court must determine why this was so;
- F the extent to which the parent complied with each provision of the Case Service Plan, prior court orders, and any agreement between the parent and the agency;
- F likely harm to the child if the child continues to be separated from his or her parent, guardian, or custodian; and
- F likely harm to the child if he or she is returned to his or her parent, guardian, or custodian.

MCR 5.973(B)(6)(a)(i)–(vi) and MCL 712A.19(6)(a)–(e); MSA 27.3178(598.19)(6)(a)–(e).

\*The provision for ordering "nonparent adult" compliance with the Case Service Plan is effective July 1, 1999. See 1998 PA 530.

## 16.15 Required Determination of Progress Toward Return of Child Home

After reviewing the Case Service Plan, the court must decide the extent of the progress made toward alleviating or mitigating conditions that caused the child to be, and to remain, in foster care. MCR 5.973(B)(6)(b) and MCL 712A.19(7); MSA 27.3178(598.19)(7).

## 16.16 Modification of the Case Service Plan

The court may modify any part of the Case Service Plan, including, but not limited to, prescribing additional services that are necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care, and prescribing additional actions to be taken by the parent, guardian, "nonparent adult,"\* or custodian to rectify such conditions. MCL 712A.19(7)(a)–(b); MSA 27.3178(598.19)(7)(a)–(b).

\*The provision for ordering "nonparent adult" compliance with the Case Service Plan is effective July 1, 1999. See 1998 PA 530.

\*See Form  
JC 19.

\*See Section  
13.24 for a  
discussion of  
dispositional  
options  
available to the  
court.

\*See Chapter  
18 for a detailed  
discussion of  
hearings on  
termination of  
parental rights.

## 16.17 Amended or Supplemental Orders of Disposition\*

Subject to MCL 712A.20; MSA 27.3178(598.20), if the child is under the jurisdiction of the court, the court may terminate the cause or amend or supplement a dispositional order pursuant to MCL 712A.18; MSA 27.3178(598.18),\* at any time the court considers necessary and proper. MCL 712A.19(1); MSA 27.3178(598.19)(1).

MCL 712A.20; MSA 27.3178(598.20), on the other hand, provides that if the child is placed in the temporary custody of the court, the court may not enter a supplemental order of disposition providing for permanent custody of the child except pursuant to issuance of summons or notice. The notice and other procedural requirements must be observed prior to a hearing at which the court will consider termination of parental rights.\*

At a dispositional review hearing, the court must determine the continuing necessity and appropriateness of the child's placement. The court has several options following a dispositional review hearing. The court may:

- F order the return of the child home;
- F modify any part of the Case Service Plan;
- F modify the dispositional order;
- F enter a new dispositional order; or
- F continue the prior dispositional order.

MCR 5.973(B)(7)(a)(i)–(v) and MCL 712A.19(7)(a)–(b) and (8); MSA 27.3178(598.19)(7)(a)–(b) and (8).

## 16.18 Records of Dispositional Review Hearings

MCR 5.925(B) requires that a record of all proceedings on the formal calendar be made and preserved by stenographic recording or by mechanical or electronic recording as provided by statute or MCR 8.108. "Formal calendar" means the judicial phases other than a preliminary inquiry or a preliminary hearing. MCR 5.903(A)(6). Thus, a record of a review hearing must be made. See also MCL 712A.19(2); MSA 27.3178(598.19)(2) ("rehearing" required under this provision must be recorded stenographically).

## Part IV — Progress Reviews and Emergency Removal of Child

### 16.19 Progress Reviews of Children at Home

The court is required to periodically review the progress of children under its jurisdiction who are not in foster care. MCR 5.973(D)(1). The court must review the progress of such children no later than:

- F 182 days after the entry of the original order of disposition, or
- F 182 days after the child returns home from foster care if the child was initially placed in foster care.

MCR 5.973(D)(2). Progress reviews are “paper reviews”: in most cases, the court will not hold a hearing to conduct the review. However, although no formal hearing is *required*, a hearing *may* be held—especially if the child was once in placement and has since been returned home.

### 16.20 Referees Who May Conduct Progress Reviews

The court may assign a referee to conduct a progress review. MCR 5.913(A)(1). A referee who conducts a progress review need not be a licensed attorney. MCR 5.913(A)(3).

### 16.21 Requirements to Order a Change in Placement When Child Is at Home

The court may not order a change in the child’s placement solely on the basis of a progress review; the court must hold a hearing to change the child’s placement. MCR 5.973(D)(2) and MCR 5.973(E)(1). See *In the Matter of Emmanuel Pantaleon*, \_\_ Mich App \_\_ (1999) (where child was initially removed from respondent-mother’s custody but later placed in respondent-mother’s home for “extended visitation,” a hearing was required to remove the child for the second time).

The procedures for conducting such a hearing are the same as those for conducting dispositional review hearings. MCR 5.973(E)(4).\*

\*See Part III, above.

### 16.22 Emergency Removal of the Child Placed at Home

#### A. Emergency Removal Hearing

If the child was previously ordered to be returned home, and if the court subsequently orders removal of the child from the parent to protect the

child's health, safety, or welfare, the court must conduct an emergency removal hearing no later than 24 hours after the child is taken into custody, excluding Sundays and holidays. MCR 5.973(E)(3).

At this initial hearing, the respondent-parent must be given a written statement of reasons for the removal and be advised of his or her rights:

\*See Section 7.9.

(i) to be represented by counsel pursuant to MCR 5.915, unless the parent is already represented;\*

\*See Section 16.22(B), immediately below.

(ii) to contest the continuing placement at a subsequent hearing within 14 days;\* and

\*See Section 5.13 (subpoenas).

(iii) to compulsory process to obtain witnesses.\*

MCR 5.973(E)(3)(a)(i)–(iii). The parent must also be given the opportunity to state why the child should be returned to the parent's custody pending further hearings. MCR 5.973(E)(3)(b).

The court may place the child with someone other than the parent pending trial or further court order if the court determines that all of the following exist:

(a) custody of the child with the parent presents a substantial risk of harm to the life, physical health, or mental well-being of the child;

(b) no provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from the risks described above; and

(c) conditions of child custody away from the parent are adequate to safeguard the health and welfare of the child.

MCR 5.973(E)(3) and MCR 5.965(C)(2)(a)–(c).

**Note:** Although MCR 5.973(E)(3) expressly references the placement criteria contained in MCR 5.965(C)(2)(a)–(c), it should be noted that these criteria have been eliminated from the statute governing the initial placement determination, MCL 712A.13a; MSA 27.3178(598.13a), upon which MCR 5.965(C)(2)(a)–(c) are based. See MCL 712A.13a(7)(a)–(b); MSA 27.3178(598.13a)(7)(a)–(b), as amended by 1997 PA 163. See Section 8.1(B) for further discussion of this statutory amendment.

## B. Review Hearing Following Emergency Removal

If the child is placed outside the home following the emergency removal hearing, a review hearing must commence no later than 14 days after the placement, except for good cause shown. The hearing must be conducted in accordance with the procedures and rules of evidence applicable to dispositional review hearings. MCR 5.973(E)(4).\*

\*See Part III, above, for the required procedures and rules of evidence.

### 16.23 Supplemental Petition Required If Additional Allegations of Abuse or Neglect Are Substantiated

If the Family Independence Agency substantiates allegations of abuse or neglect while the child is under the jurisdiction of the court, the FIA must file a supplemental petition with the court. MCL 712A.19(1); MSA 27.3178(598.19)(1).

The procedures governing supplemental petitions are not explicitly set forth in the Juvenile Code or court rules. The court may determine whether to authorize the filing of the supplemental petition following a preliminary inquiry (if custody is not requested) or a preliminary hearing (if custody is requested). See MCR 5.962(A), MCR 5.965(A), and MCR 5.973(E)(3) (emergency removal hearings). Although a respondent-parent may not be entitled to a trial on the allegations contained in a supplemental petition, the rules of evidence may apply during other hearings on those allegations. See Sections 16.22(B), above (review following emergency removal), and 18.12 (applicability of the rules of evidence when the supplemental petition requests termination of parental rights).

**Note:** If the child has been removed from his or her home or placed in the home of a relative, responsibility for case service and management is transferred within the Family Independence Agency from Child Protective Services to Foster Care Services. Foster Care Services workers complete the Initial Services Plan and arrange parenting time and sibling visits. However, under MCL 712A.19(1); MSA 27.3178(598.19)(1), if the FIA becomes aware of additional abuse or neglect while the child is under the court's jurisdiction, and if the abuse or neglect is substantiated, Child Protective Services will file the supplemental petition.

See also Section 2.21, which details the required response by FIA following an investigation of abuse or neglect, and provides new definitions of "substantiated" and "unsubstantiated" allegations. There is an apparent conflict between the mandatory petition required under MCL 712A.19(1); MSA 27.3178(598.19)(1), and "substantiated" allegations that the FIA places in Category III, which does not *require* a petition to be filed with the court. If a supplemental petition is filed with the court under §19(1) containing allegations that the FIA has classified as Category III, the court has discretion to authorize the filing of the supplemental petition.

